

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2012-390-C - ORDER NO. 2013-167

MARCH 27, 2013

IN RE: Application of Blue Jay Wireless, LLC) ORDER DESIGNATING
for Designation as an Eligible) BLUE JAY WIRELESS, LLC
Telecommunications Carrier for the) AS AN ELIGIBLE
Purpose of Offering Lifeline Service on a) TELECOMMUNICATIONS
Wireless Basis) CARRIER FOR THE
) PROVISION OF LIFELINE
) SERVICE

This matter comes before the Public Service Commission of South Carolina (the “Commission”) and concerns the above-captioned Application of Blue Jay Wireless, LLC (“Blue Jay”) for Designation as a wireless Eligible Telecommunications Carrier (“ETC”) in the State of South Carolina for the limited purpose of offering Lifeline Service to qualified households (the “Application”). In its Application, Blue Jay sought designation as an ETC pursuant to § 214(e)(2) of the Federal Communications Act of 1934, as amended (“Act”), solely to provide wireless services supported by the Federal Universal Service Fund’s (“USF’s”) Lifeline program. Blue Jay did not seek authority to provide services supported by the USF’s high-cost program.

For the reasons explained in this Order, the Commission has concluded that the Application should be approved and that designation of Blue Jay as a wireless ETC on the terms provided in this Order would serve the public interest.

I. BACKGROUND

Blue Jay filed the Direct Testimony of David Wareikis on January 31, 2013, and the Verification of David Wareikis on March 11, 2013. On December 7, 2012, Blue Jay supplemented its Application in response to the Federal Communications Commission's ("FCC") *Lifeline Reform Order*¹ and provided the Commission with a copy of the Revised Compliance Plan that it submitted to the FCC for approval on November 30, 2012. On February 6, 2013, Blue Jay advised that the FCC Wireline Competition Bureau had approved the Blue Jay Compliance Plan (as most recently revised on December 19, 2012) on December 26, 2012. In addition, on March 6, 2013, the ORS filed with the Commission a Stipulation entered into between Blue Jay and the South Carolina Office of Regulatory Staff ("ORS") (the "Stipulation").

As directed by the Commission, notice of the filing of the Application was published and proof of publication provided to the Commission on December 11, 2012. No petitions to intervene were filed in this matter. ORS is a party pursuant to statute.

The Stipulation recommends that Blue Jay be designated as a wireless ETC for the limited purpose of providing Lifeline service to qualified households in accordance with the terms of the Stipulation. A copy of the Stipulation is attached hereto as Order Exhibit A.

On March 6, 2013, Blue Jay filed a Motion for Expedited Approval, requesting that the Commission waive the hearing scheduled for March 14, 2013, at 10:30 a.m.,

¹ *Lifeline and Link Up Reform and Modernization, et al.* WC Docket No. 11-42, *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) ("*Lifeline Reform Order*").

admit the Verified Direct Testimony of David Wareikis into the record, grant expedited consideration of the Application, and approve the Application. The ORS did not object to this motion. Having considered the record before it, the Commission finds that the record before it is sufficient to make a final determination in this matter and that the interests of judicial economy are served by waiving the hearing and granting expedited consideration.

II. REQUIREMENTS FOR DESIGNATION

The purpose of an eligible telecommunications carrier designation is to further the public interest goal of ensuring that consumers in all regions, including those in rural, insular, and high cost areas, have access to telecommunications services comparable to those in urban areas.² An ETC is a common carrier designated by a state commission as eligible to receive federal universal service support.³ State commissions derive this authority from 47 U.S.C. § 214(e)(2), and for the purposes of this Docket, the requirements for ETC designation in South Carolina are described under 10 S.C. Code Ann. Regs. 103-690(C)(a) (2012), which further elaborates that a carrier seeking designation must offer and advertise the services enumerated under 47 C.F.R. § 54.101.

A. Federal Requirements for ETC Designation

On November 18, 2011, and February 3, 2012, respectively, the FCC released the *USF/ICC Transformation Order*⁴ and the *USF/ICC Clarification Order*⁵ which revised

² See 10 S.C. Code Ann. Regs. 103-690(A)(2) (2012).

³ See 47 C.F.R. § 54.201.

⁴ *In the Matter of Connect America Fund, Report and Order and Further Notice of Proposed Rulemaking*, FCC 11-161, released November 18, 2011 (“*USF/ICC Transformation Order*”).

⁵ *In the Matter of Connect America Fund, Order*, DA 12-147, released February 3, 2012 (“*USF/ICC Clarification Order*”).

the eligibility requirements for ETC designation. Accordingly, the supported services found in 47 C.F.R. § 54.101(a) to be included in universal service offerings are: (1) voice grade access to the public switched telephone network; (2) local usage provided free of charge to end users; (3) access to emergency services, such as 911; and (4) toll limitation for qualifying low-income consumers. Additionally, the FCC: (1) required carriers to certify compliance with the service requirements applicable to the support received, consistent with 47 C.F.R. § 54.202(a)(1)(i); (2) eliminated the additional requirement of offering local usage and providing equal access found in 47 C.F.R. § 54.202; and (3) eliminated the requirement that Lifeline-only applicants submit a 5-year service improvement plan pursuant to 47 C.F.R. § 54.202.

B. State Requirements for ETC Designation

10 S.C. Code Ann. Regs. 103-690(C)(a)(1)(C) sets out particular conditions for those carriers only seeking federal USF support for participation in Lifeline programs. To satisfy these conditions, an applicant must:

- (1) Submit a two-year plan that describes the carrier's plans for advertising and outreach programs for identifying, qualifying, and enrolling eligible participants;
- (2) Demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, its ability to reroute traffic around damaged facilities, and its capability of managing traffic spikes resulting from emergency situations;

- (3) Demonstrate that it will satisfy applicable consumer protection and service quality standards;
- (4) Demonstrate that it offers a local usage plan comparable to the one offered by the ILEC in the service areas for which it seeks designation;
- (5) Certify by affidavit signed by an officer of the company that the carrier acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area;
- (6) Certify by affidavit signed by an officer of the company that it does offer or will offer the services that are supported by the federal universal service support mechanisms by using its own facilities or a combination of its own facilities and resale of another carrier's services; and
- (7) Certify by affidavit signed by an officer of the company that it does or will advertise in a media of general distribution the availability of such services, including lifeline services and the applicable charges.

According to R. 103-690.1, ETCs participating in Lifeline programs must provide annual reporting information to the Commission and ORS by June 30 of each year and meet explicit requirements for administering these programs.⁶ The annual reporting information, specified by R. 103-690.1(B)(b), requires the carrier to submit detailed statistical information about its customers, or potential customers, and make certain certifications about conducting the programs. Additionally, this regulation requires the

⁶ For wireless carriers, the annual report must contain a commitment to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Services. For other ETCs, the annual report must contain a commitment that they meet the service quality standards of R. 103-663.

carrier to submit copies of responses to the Lifeline Verification Survey or Certification filed with the Universal Service Administrative Company on August 31st of each year.

As specified in R. 103-690.1(E)(a), ETCs shall offer Lifeline to all qualifying low-income residents in the designated service area as follows:

- (1) ETCs shall publicize the availability of the service in a manner reasonably designed to reach those likely to qualify for the service;
- (2) ETCs shall commit to offer toll limitation to all qualifying low-income consumers at the time such consumers subscribe to Lifeline service. If the consumer elects to receive toll limitation service, that service becomes part of that consumer's Lifeline service;
- (3) ETCs may not collect a service deposit in order to initiate Lifeline service if the qualifying low-income consumer voluntarily elects toll limitation service from the carrier where available;
- (4) ETCs shall verify annually that their Lifeline customers meet the program qualification;
- (5) ETCs shall notify Lifeline subscribers a minimum of 60 days prior to termination of their service if the carrier has a reasonable basis to believe that the subscriber no longer meets the Lifeline qualifying criteria; and
- (6) ETCs shall not charge Lifeline customers a monthly number portability charge.

III. ANALYSIS

A. Eligibility and Service Area

Blue Jay is a common carrier as that term is defined in the Act⁷ and, as such, is eligible for designation as an ETC. Section 214(e)(2) of the Act provides that ETC designation shall be made for a “service area” designated by the state commission. Section 214(e)(5) of the Act provides that the “service area” shall be a “geographic area established by the state commission.” Blue Jay seeks ETC designation in its List of Wire Centers, filed as a supplemental exhibit to Blue Jay’s Application in this Docket on December 6, 2012. No party opposes Blue Jay’s service area designation.

B. Compliance with Federal Requirements for ETC Designation

Section 214(e)(1)(A) of the Act requires that an ETC offer the services that are supported by federal universal service support mechanisms (“Supported Services”) either using its own facilities or a combination of its own facilities and resale of another carrier’s services. On December 26, 2012, the FCC granted Blue Jay’s Compliance Plan, which was a condition of forbearance from the “own facilities” requirement contained in section 214(e)(1)(A) of the Communications Act and in 47 C.F.R. § 54.201(d)(1), consistent with the FCC’s determination to forbear from applying the “own facilities” requirement to low income-only (e.g., Lifeline) ETC applications that comply with the conditions set forth in the FCC’s *Lifeline Reform Order*.⁸ The conditions imposed by the

⁷ 47 USC §153(11); see also 47 C.F.R. § 20.9.

⁸ See *Wireline Competition Bureau Approves the Compliance Plans of Airvoice Wireless, Amerimex Communications, Blue Jay Wireless, Millennium 2000, Nexus Communications, Platinumtel Communications, Sage Telecom, Telrite, and Telscape Communications*, FCC Public Notice, WC Docket Nos. 09-197 and 11-42, DA 12-2063 (rel., December 26, 2012).

FCC in exchange for its grant of forbearance are set out in Blue Jay's FCC-approved Compliance Plan.

The record demonstrates that upon designation as a wireless ETC in South Carolina, Blue Jay will provide the required services pursuant to the *Lifeline Reform Order* and 47 C.F.R. § 54.101 as follows:

- 1) Voice-grade access to the public switched telephone network.
- 2) Local usage.
- 3) Access to Emergency Services.
- 4) Toll Limitation For Qualifying Low-Income Consumers.

In addition, Blue Jay supplemented its Application with a copy of its approved Compliance Plan demonstrating that it is financially and technically capable of providing Lifeline service, and that it will comply with other requirements of the *Lifeline Reform Order*, including: the FCC's revised verification and certification requirements; the uniform \$9.25 per month federal non-Tribal reimbursement of the Lifeline discount and additional \$25 Tribal reimbursement; specific disclosures in advertising and outreach; processes for determining initial and ongoing eligibility; and reporting and compliance obligations.

C. Compliance with 10 S.C. Code Ann. Regs. 103-690

Blue Jay seeks ETC designation only for the purpose of participating in the low-income support component of the federal USF (the Lifeline program) in its service area, and does not seek designation for the purpose of receiving high cost support from the

federal USF. As an ETC, Blue Jay will offer telecommunications service to customers who are eligible for Lifeline support and will use federal USF support funds only for that purpose. This service offering will be competitive with those of ILECs serving the requested area and afford eligible South Carolinians in the affected service area a choice in their Lifeline service.

In order to meet the requirements of 10 S.C. Code Ann. Regs. 103-690(C)(a)(1)(A), Blue Jay has committed to provide service throughout the proposed designation area to all qualifying customers making a reasonable request for service.

(1) Two Year Plan:

Blue Jay's two-year plan, attached to the Application as Appendix C, meets the requirements of R. 103-690(C)(a)(1)(C)(1) by describing its plans for advertising and its outreach programs for identifying, qualifying, and enrolling eligible participants in its Lifeline programs. Blue Jay will advertise its Lifeline services through a combination of informational brochures, newspapers of general circulation, radio and television advertising, online and social media channels and/or face-to-face contact between sales representatives and its customers.

(2) Ability to Remain Functional During Emergencies:

Mr. Wareikis testified in his direct testimony that because Blue Jay will utilize facilities from one or more facilities-based wireless carriers (Verizon and/or Sprint) to serve its customers, Blue Jay has the same ability to remain functional in emergency situations as those carriers. Likewise, those carriers' networks have reasonable amounts of back-up power to ensure functionality without an external power source, and have

implemented reasonable practices to reroute traffic around damaged facilities and manage traffic spikes resulting from emergency situations.

(3) Consumer Protection and Service Quality Commitment:

Pursuant to 10 S.C. Code Ann. Regs. 103-690(C)(a)(1)(C)(3), Blue Jay has committed to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service ("CTIA Code").

(4) Local Usage Plan:

Blue Jay's local usage plan meets the requirements of R. 103-690(C)(a)(1)(C)(4). As Mr. Wareikis testified in his direct testimony, Blue Jay will provide a certain amount of service free of charge, including nationwide domestic long-distance calling at no extra per minute charge, as well as no charge to its customers for "roaming", and it will offer its Lifeline customers a variety of other features at no cost.

(5) Equal Access Obligation:

Complying with R. 103-690(C)(a)(1)(C)(5), the Company submitted an affidavit, attached as Appendix B to the Application, which acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications designation is sought.

(6) Facilities:

Complying with R. 103-690(C)(a)(1)(C)(6), the Company submitted an affidavit, attached as Appendix B to the Application, which acknowledges that it offers services that are supported by the federal USF low-income support mechanisms by reselling the services of underlying facilities-based carriers. As described above, the FCC has granted

Blue Jay's Compliance Plan and Blue Jay has received blanket forbearance from the "own facilities" requirement. Likewise, the Commission grants Blue Jay forbearance from any "own facilities" requirement found in R. 103-690(C)(a)(1)(C)(6), subject to Blue Jay's compliance with the Stipulation and the terms of its Compliance Plan.

(7) Advertisement of Services:

Complying with R. 103-690(C)(a)(1)(C)(7), Blue Jay submitted an affidavit, attached as Exhibit B to the Application, which acknowledges that it will advertise through media of general distribution the availability of, and applicable charges for, the services supported by the USF low-income support mechanism.

D. ETC Designation is in the Public Interest

Low-income support from the federal USF to provide the Lifeline program is designed to reduce the monthly cost and increase the availability of telecommunications services for eligible customers. This cost reduction is distributed on a household basis and directly affects the price that an eligible customer pays. Blue Jay has demonstrated that all USF support it receives will be used to provide Lifeline service to consumers, thus promoting the availability and affordability of telephone service to low-income users.

In the Commission's view, the additional designation of Blue Jay as a wireless ETC will increase consumer choice for low-income customers eligible for Lifeline support in the areas requested. Customers who can obtain these telecommunications services will likely benefit from additional rate plan options and increased access to emergency services. Therefore, subject to the commitments and conditions discussed in

this Order, the Commission concludes that Blue Jay has shown that its designation as a wireless ETC is in the public interest for its proposed ETC designated area.

As demonstrated in the Application, the testimony, the Stipulation, and the company's Compliance Plan, Blue Jay satisfies all the relevant requirements for designation as an ETC specified in Sections 254 and 214 of the Act and 10 S.C. Code Ann. Regs. 103-690.

In the *Lifeline Reform Order*, the FCC adopted specific reforms attempting to limit fraud, waste and abuse in the low-income program. Blue Jay commits to compliance with the rules as they are applicable.

Section 103-690C(b) of S.C. Code Regs. provides that in determining whether an ETC designation is in the public interest the Commission must consider, *inter alia*, the benefits of increased consumer choice and the unique advantages and disadvantages of the applicant's service offering.

Considering these factors and others, the Commission determines that it is in the public interest that the Commission grant Blue Jay Wireless, LLC wireless ETC designation for the limited purpose of providing Lifeline service.

FINDINGS AND CONCLUSIONS

1. The prefiled testimony and Stipulation are accepted into the record without objection;

2. Since this matter is uncontested and ORS does not oppose the Application, Expedited Review should be granted as contemplated by S.C. Code Ann. § 1-23-320(F);

3. Blue Jay meets all federal and state requirements for designation as an ETC in the proposed areas where it seeks designation;

4. Granting this Application furthers the goals and purposes of Section 254 of the Telecommunications Act of 1996 in that access to the federal Universal Service Fund will ensure Lifeline support to qualifying customers; and

5. Granting this Application is in the public interest.

IT IS THEREFORE ORDERED THAT:

1. Expedited review is granted.

2. Blue Jay is hereby designated as an ETC, as of the effective date of this Order and in the requested areas, for the limited purpose of providing Lifeline service as requested in the Application on the terms provided in the Stipulation. A copy of this Order shall be promptly provided by the Commission to the FCC and the Universal Service Administrative Company.

3. Blue Jay shall abide by its commitment to provide service throughout its ETC-designated service area to all customers making a reasonable request for service, including low-income customers.

4. All federal USF funding received as a result of this Order shall be used to provide Lifeline support for low-income customers.

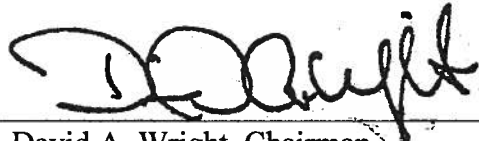
5. Blue Jay shall meet the reporting and certification requirements for ETCs as outlined by the *Lifeline Reform Order* and 10 S.C. Code Ann. Regs. 103-690.1, and file the annual reporting information with the Commission no later than June 30 of each year. A copy of this report shall be provided to the ORS.

6. Blue Jay shall administer the Lifeline program in conformity with 47 U.S.C. § 214(e)(2), 47 C.F.R. § 54.101 *et seq.*, and 10 S.C. Code Ann. Regs. 103-690.1(E)(a).

7. Should the Commission determine that Blue Jay has not honored its commitments and plans as set forth before the Commission, or has failed to follow the applicable statutes or regulations, the Commission may deny Blue Jay's annual recertification as an ETC.

8. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



David A. Wright, Chairman

ATTEST:



Randy Mitchell, Vice Chairman
(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2012-390-C
March 6, 2013

IN RE: Application of Blue Jay Wireless, LLC for)
 Designation as an Eligible)
 Telecommunications Carrier for the Purpose)
 of Offering Lifeline Service on a Wireless)
 Basis

STIPULATION

This Stipulation is made by and among the South Carolina Office of Regulatory Staff (“ORS”) and Blue Jay Wireless, LLC (“Blue Jay Wireless” or the “Company”) (collectively referred to as the “Parties” or sometimes individually as a “Party”).

WHEREAS, on November 14, 2012, Blue Jay Wireless filed its Application requesting Designation as an Eligible Telecommunications Carrier (“ETC”) for the Purpose of Offering Lifeline Service on a Wireless Basis;

WHEREAS, ORS has reviewed the Application and testimony of David Wareikis which was filed on January 31, 2013;

WHEREAS, Blue Jay Wireless is only seeking wireless ETC Designation for the limited purpose of offering Lifeline service to qualified households in South Carolina by participation in the Federal Universal Service Low Income Fund (“Federal USF”);

WHEREAS, as a result of its investigation, ORS has determined that subject to the provisions set forth below, Blue Jay Wireless’ request for designation as an ETC should be approved;

WHEREAS, Blue Jay Wireless filed a compliance plan with the Federal Communications Commission ("FCC"), and agrees to comply with the requirements and conditions set out in the approved FCC compliance plan ("Compliance Plan"); and

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

1. Blue Jay Wireless is a wireless service reseller offering wireless voice communications and proposing to offer Lifeline services in South Carolina.
2. Blue Jay Wireless has requested wireless, Lifeline-only ETC designation in South Carolina.
3. Blue Jay Wireless provides its voice service plans, including a Lifeline plan by purchasing, through a third-party vendor (e.g. Natel Networks and Telecom Service Bureau), and reselling the wireless services of Sprint and Verizon Wireless.
4. Blue Jay Wireless has limited its requested Universal Service Fund ("USF") support to the Federal USF low income support program. Blue Jay Wireless certifies that all low income USF funding it receives will be used to provide a credit to its Lifeline eligible customers, consistent with 47 C.F.R. 54.403.
5. The Company's Compliance Plan, as approved by the FCC, is attached to and incorporated in this Stipulation. Blue Jay Wireless agrees to comply with all terms and conditions of the attached FCC approved Compliance Plan. Any changes or modifications to the Company's FCC approved Compliance Plan must be filed with the Public Service Commission of South Carolina (the "Commission"), with a copy to ORS, within five (5) days of approval at the FCC.

6. Blue Jay Wireless agrees to advertise the availability of Lifeline using media of general distribution.

7. Blue Jay Wireless is to offer Lifeline credits consistent with the rates, terms, and conditions contained in its rate schedules and website and will publish the availability and the pricing of these same offerings on its website or on/in a public forum accessible by Lifeline eligible low income consumers.

8. Blue Jay Wireless agrees to only seek direct low-income support from the USF for wireless service provided through the use of the resold services of its underlying carrier(s). Until modified by the Commission, Blue Jay Wireless agrees to utilize the means test established by the FCC and set forth in 47 C.F.R. 54.409.

9. Blue Jay Wireless agrees to notify the Commission ten (10) days in advance of any changes to its Lifeline rates in South Carolina, or the pricing of any additional minute plans offered to South Carolina Lifeline customers.

10. Blue Jay Wireless agrees to provide Lifeline customers the federal lifeline credit of \$9.25 per month, consistent with 47 C.F.R. 54.403. In addition, Blue Jay Wireless agrees to provide all South Carolina Lifeline customers with a company funded \$3.50 credit. The Company may fulfill this commitment by offering a South Carolina Lifeline plan that provides 250 minutes of voice only service without rollover at a monthly cost of \$0.00 in addition to Lifeline optional plans outlined in the approved Compliance Plan. Blue Jay Wireless will also offer a non-Lifeline plan that provides 250 minutes of Talk/Text without rollover at \$12.75 per month. In the event the Commission, the FCC, or a court of competent jurisdiction issues a decision that a credit of \$3.50 is not required to be provided by ETCs to South Carolina Lifeline customers, the Parties agree that this Agreement will be modified to reflect that ruling.

11. Blue Jay Wireless agrees to allow qualifying low-income consumers to apply all applicable Lifeline discounts to any residential service plan that includes voice telephony service, including bundled packages of voice and data services; and plans that include optional calling features such as, but not limited to, caller identification, call waiting, voicemail, and three-way calling. Blue Jay Wireless may also permit qualifying low-income consumers to apply their Lifeline discount to family shared calling plans.

12. Blue Jay Wireless agrees that it will abide by all advertising, reporting and verification requirements established by the FCC and the Commission.

13. Blue Jay Wireless agrees to provide ORS with any FCC Citations issued against the Company's Lifeline South Carolina customers, within five (5) days of issuance by the FCC if the full identity of the recipient of the citation is made available to Blue Jay Wireless.

14. Blue Jay Wireless agrees that it will not seek reimbursement from the Federal USF for resold services where the Company receives the Lifeline credits through an underlying carrier. Blue Jay Wireless will seek Federal USF reimbursement for Lifeline customers only if the underlying carrier has not or will not seek reimbursement for those same Lifeline customers.

15. Blue Jay Wireless agrees to file all reports requested by ORS or the Commission, including but not limited to: the "Telecommunications Company Annual Report," the "Authorized Utility Representative Form," the "Gross Receipts Form," and the "USF Worksheet." All of which may be found on the ORS website at www.regulatorystaff.sc.gov in the telecommunications forms section.

16. Blue Jay Wireless agrees to file with the ORS a certified true copy of its Form 497 filed with the Universal Service Administrative Company ("USAC"), including revisions thereto, no later than five (5) calendar days after the Form or revision is filed with USAC.

17. If the designations sought herein are granted, Blue Jay Wireless agrees to pay the annual gross receipts assessment in accordance with S.C. Code § 58-3-100 and S.C. Code § 58-4-60.

18. Blue Jay Wireless does not distinguish in the pricing of toll and non-toll calls. Should Blue Jay Wireless change its business model to include toll services, Blue Jay Wireless agrees to offer a toll blocking and/or limitation option for Blue Jay Wireless Lifeline service at that time.

19. Blue Jay Wireless agrees that the Company will not seek reimbursement for toll limitation services.

20. Blue Jay Wireless agrees to waive any and all activation fees or roaming charges for Lifeline customers.

21. Blue Jay Wireless agrees to implement or to participate in a program for initial certification and annual verification that insures that an eligible Lifeline customer only receives one Lifeline credit per residential address, and must conform with its Compliance Plan on file with the FCC and 47 C.F.R. 54-410.

22. Blue Jay Wireless agrees to provide E911 compliant handsets to new Lifeline customers and replace any non-compliant handsets at no charge for its existing customers who are approved as Lifeline customers as part of its Basic Lifeline Service Plans.

23. If the designation sought herein is granted, Blue Jay Wireless will contribute to the South Carolina USF on the basis of its total South Carolina retail "end user" telecommunications revenues, and must submit all documentation and Universal Service fees required by South Carolina.

24. Blue Jay Wireless agrees to submit a quarterly report to ORS demonstrating the number of South Carolina Lifeline customers who have been deactivated by Blue Jay Wireless during the quarter due to: (1) non-payment on their customer account during two consecutive 30-day periods; (2) customer failure to comply with or pass the annual verification requirement; or (3) voluntary customer-requested deactivation. In addition, consistent with the annual reporting commitments contained in its approved Compliance Plan, Blue Jay Wireless agrees to file state specific reports with ORS.

25. Blue Jay Wireless agrees that ORS may examine the Company's records and documentation to ensure that the universal service support the Company receives is being used for the purpose for which it was intended. Blue Jay Wireless is required to provide such records and documentation to ORS upon request. Blue Jay Wireless agrees that if it fails to fulfill the requirements of the Act, the Commission's rules, or the terms of this agreement after it begins receiving universal service support, the ORS may exercise its authority to seek revocation of Blue Jay's ETC designation with the Commission.

26. Blue Jay Wireless shall comply with all applicable state and federal laws, rules, and regulations regarding ETC designation and reporting requirements. More specifically, Blue Jay Wireless agrees to abide by the Commission regulations regarding designation of an ETC found in 10 S.C. Code Ann. Reg. 103-690 as well as requirements set out by the FCC for ETC designation and for participation in the Lifeline program (e.g. FCC Regulation Subpart E – Universal Service Support for Low-Income Consumers).

27. The Parties represent that the terms of this Stipulation are based upon full and accurate information known as of the date this Stipulation is executed. If, after execution, either Party is made aware of information that conflicts, nullifies, or is otherwise materially different

than that information upon which this Stipulation is based, either Party may withdraw from the Stipulation with written notice to the other Party.

28. Subject to the provisions set forth herein, ORS does not oppose the Application of Blue Jay Wireless for designation as an eligible telecommunications carrier.

29. ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10(B) (Supp. 2012). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows:

... 'public interest' means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes the Stipulation reached among the Parties serves the public interest as defined above.

30. The Parties agree to advocate that the Commission accept and approve this Stipulation in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and that the Commission take no action inconsistent with its adoption. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Stipulation be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Stipulation and the terms and conditions contained herein.

31. The Parties represent that the terms of this Stipulation are based upon full and accurate information known as of the date this Stipulation is executed. If, after execution, either

Party is made aware of information that conflicts with, nullifies, or is otherwise materially different than that information upon which this Stipulation is based, either Party may withdraw from the Stipulation with written notice to the other Party.

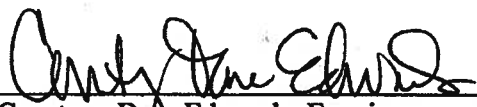
32. The Parties agree that signing this Stipulation will not constrain, inhibit, impair or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Stipulation in its entirety, then any Party desiring to do so may withdraw from the Stipulation in its entirety without penalty or obligation.

33. This Stipulation shall be interpreted according to South Carolina law.

34. The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Stipulation by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the original signature pages combined with the body of the document constituting an original and provable copy of this Stipulation. The Parties agree that in the event any Party should fail to indicate its consent to this Stipulation and the terms contained herein, then this Stipulation shall be null and void and will not be binding on any Party.

[PARTY SIGNATURES TO FOLLOW ON SEPARATE PAGES]

Representing the South Carolina Office of Regulatory Staff

A handwritten signature in black ink, appearing to read "Courtney Date Edwards", is written over a horizontal line.

Courtney Date Edwards, Esquire

South Carolina Office of Regulatory Staff

1401 Main Street, Suite 900

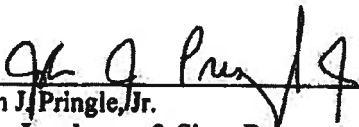
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